IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05-12-2007

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

W.P.No.6345 of 1999

K.Radhakrishnan .. Petitioner.

Versus

1.State of Tamil Nadu rep.
by Secretary to Government,
Commercial Taxes and Religious
Endowments Department,
Fort St. George, Chennai-600 009.

2.The Joint Registrar,
Registration, Coimbatore.

3.The Special Deputy Collector,
(Stamps), Coimbatore. .. Respondents.

Prayer: This writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Declaration, declaring that Section 19-B and 63-A as inserted by virtue of Indian Stamp (Tamil Nadu Amendment) Act 42 of 92 as unconstitutional.

For Petitioner : Mr. A. Jenasenan

For Respondents : Mr.V.Manoharan
Government Advocate

O R D E R

Heard Mr.R.Muthukumaraswamy, the learned counsel appearing for the petitioner and Mr.V.Manoharan, the learned Government Advocate appearing for the respondents.

2. It is stated by the petitioner that he is a resident of Coimbatore, owning lands in the State of Tamil Nadu, as well as in the State of Kerala. The petitioner had desired to purchase two items of properties, one situate in the State of Tamil Nadu and the other situate in the State of Kerala from his brother. Accordingly, the petitioner had purchased the said properties from his brother, under a Registered sale

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deed, dated 12.10.1995, registered as Document No.1601/95, on the file of the Sub Registrar, Agali, State of Kerala. It is also stated that the consideration fixed in respect of the said property has been reflected in the sale deed and it is true and correct consideration, which was paid by the petitioner to the vendor.

3. Under Section 28 of the Indian Registration Act, a person is entitled to have a document registered in the Office of the Sub Registrar having jurisdiction over any of the properties conveyed in the document. It has been further stated that the petitioner was served with a notice by the joint Sub Registrar, Coimbatore, in the month of July 1996, stating that the document No.1601/95 registered in Kerala relates to a property in Tamil Nadu and had it been registered in the State of Tamil Nadu, the Stamp Duty would have been more and therefore, by the said notice, the petitioner was called upon to pay the alleged deficit stamp duty of Rs.13,500/-. The said notice was purported to have been issued under Section 19-B of the Indian Stamp Act, 1899. Thereafter, another notice had been issued in the month of September 1996 by the Joint Sub Registrar, Coimbatore, asking the petitioner to pay the deficit Stamp Duty of Rs.4,41,170/- stating that the value of the property covered by Document No.1601/95 was Rs.33 lakhs. After the petitioner had submitted his objections, the second respondent had conducted an enquiry on 13.1.1997. By a communication, dated 26.3.99, the second respondent had directed the petitioner to pay the deficit Stamp duty of Rs.1,83,328/-. In such circumstances, the present writ petition has been filed to declare Sections 19-B and 63-A of The Indian Stamp Act, 1899, inserted by virtue of the Tamil Nadu Amendment Act 43 of 92, as unconstitutional and invalid.

4. At this stage of the hearing of the writ petition, it was pointed out that several orders have been passed by this Court upholding the validity of Section 19-B of the Indian Stamp Act, 1899, inserted by the Tamil Nadu Amendment Act 43 of 1992. One such order, dated 1.12.2006, made in W.P.No.6998 of 1996 has been placed before this court.

5. In view of the orders passed by this court, upholding the validity of Section 19-B of the Indian Stamp Act, 1899, which was inserted by the Tamil Nadu Amendment Act 43 of 92, the writ petition stands dismissed.

sd/-
Asst.Registrar

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/true copy/

Sub Asst.Registrar

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To

1. The Secretary to Government,
State of Tamil Nadu rep.
Commercial Taxes and Religious
Endowments Department,
Fort St. George, Chennai-600 009.

2.The Joint Registrar,
Registration, Coimbatore.

3.The Special Deputy Collector,
(Stamps), Coimbatore.

+ one cc to Mr. A Jenasenan, Advocate, SR. 71688

KLT(CO)
RP 03.01.2008.

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